

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA, :
Plaintiff,

VS.

:
:
: Case No. 2:25-CR-56

CODY L. PRATER,
Defendant.

JUDGE MICHAEL H. WATSON

UNOPPOSED MOTION TO CONTINUE TRIAL AND MOTION DEADLINES

COMES NOW, the defendant, Cody L. Prater, by and through undersigned counsel, pursuant to 18 U.S.C. § 3161(h)(7)(A) and B(IV) and moves this Court to continue trial currently scheduled for June 16, 2025. Additionally, defense moves to extend all other dates and deadlines listed in the scheduling Order for a length of time consistent with the new trial date. The grounds for this motion are set forth in the attached Memorandum. Undersigned counsel submits that the requested extension would serve the interests of justice and that the time would be excludable pursuant to 18 U.S.C. §3161(h)(7)(A) and (B)(IV). Assistant United States Attorneys Emily Czerniejewski and Tyler Aagard do not oppose the requested continuance. The defendant, Cody L. Prater does not oppose the requested continuance.

Respectfully submitted,

JOSEPH MEDICI
FEDERAL PUBLIC DEFENDER

/s/ Stacey MacDonald
Stacey MacDonald (WA 35394)
Assistant Federal Public Defender
10 West Broad Street, Suite 1020

Columbus, Ohio 43215-3469
Telephone: (614) 469-2999
Facsimile: (614) 469-5999
Stacey_MacDonald@fd.org

Attorney for Defendant
Cody L. Prater

MEMORANDUM IN SUPPORT OF MOTION

On April 10, 2025, Cody Prater was charged by indictment with:

- Count 1 – Receipt of Child Pornography, subsequent to a prior conviction
- Count 2 – Transportation of Obscene Matters
- Count 3 – Receipt of Obscene Visual Representations of Child Sex Abuse
- Count 4 – Possession of Obscene Visual Representations of Child Sex Abuse
- Count 5 – Possession of Child Pornography, subsequent to a prior conviction

Some of these charges relate to Artificial Intelligence created images. Mr. Prater has entered a plea of not guilty to the charges and trial is currently set for June 16, 2025. This is a first trial set. No prior motions to continued have been filed.

The Government has provided discovery to defense including various reports, copies of Mr. Prater's prior criminal history, affidavits and photos from the search of his residence. Defense counsel has begun a review of the CASM materials at the local law enforcement agency but has not yet reviewed all the evidence. Additional time is needed to complete this review.

Inherent within the right to counsel is the duty of trial counsel to conduct pretrial investigation and meaningfully consult with the person accused. This includes a review of the evidence against the accused and may include the retention of forensic experts. "The Sixth Amendment requires effective assistance of counsel at critical stages of a criminal proceeding. . . The constitutional guarantee applies to pretrial critical stages that are part of the whole course of a criminal proceeding, a proceeding in which defendants cannot be presumed to make critical decisions without counsel's advice." *Lafler v. Cooper*, 566 U.S. 156, 165, 132 S. Ct. 1376, 182

L. Ed. 2d 398 (2011)(Finding that the requirement for effective assistance of counsel applies to pretrial plea negotiations).

In this case defense is in the process of retaining a forensic computer expert to assist in the review of the case and potential trial testimony. Additional time is needed for that evaluation to occur, any reports to be completed and provided to the government, prior to motions deadline and a trial. This forensic evaluation is also necessary to identify for the defense any potential applicable pretrial motions to file.

The parties have conferred and are all available for a September trial date in this case. Counsel submits that the ends of justice served by granting the continuance outweigh the interests of the public and the defendant in a speedy trial. 18 U.S.C. § 3161(7)(A). The failure to grant the requested continuance would deny counsel for the defendant reasonable time necessary for effective preparation taking into account the exercise of due diligence. 18 U.S.C. § 3161 (h)(7)(B)(iv). Mr. Prater is aware of his right to a speedy trial and waives that right. He agrees with the requested continuance for the reasons set forth above.

WHEREFORE, for the reasons set forth above, the defense respectfully requests this Court grant this motion to continue the trial and associated deadlines to a date in September of 2025.

Respectfully submitted,

JOSEPH MEDICI
FEDERAL PUBLIC DEFENDER

/s/ Stacey MacDonald
Stacey MacDonald (WA 35394)
Assistant Federal Public Defender
10 West Broad Street, Suite 1020
Columbus, Ohio 43215-3469

Telephone: (614) 469-2999
Facsimile: (614) 469-5999
Stacey_MacDonald@fd.org

Attorney for Defendant
Cody L. Prater

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users, and that service will be accomplished by the CM/ECF system.

/s/ Stacey MacDonald
Stacey MacDonald (WA 35394)
Assistant Federal Public Defender